

REMARKS/ARGUMENTS

Claims 1 through 28 are pending in this application.

The Office Action asserts that an election of a single invention is required, as defined by:

- Group I, Claims 1-13, drawn to a cosmetic composition;
- Group II, Claims 14-23, drawn to a nonaqueous cosmetic composition;
- Group III, Claims 24-26, drawn to a nonaqueous nail polish;
- Group IV, Claim 27, drawn to a method and
- Group V, Claim 28, drawn to a method.

Applicants provisionally elect Group I with traverse, including claims 1-13 for prosecution. Applicants respectfully disagree with the restriction requirement imposed by the Examiner and the characterizations made of the claimed invention. Accordingly, this provisional election is made with traverse.

According to M.P.E.P. §803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; and
- (2) There must be serious burden on the Examiner if restriction is not required.

Applicants respectfully submit that (1) the four groups of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together.

The Examiner has not shown that examination of all the pending claims would require undue searching and/or place a serious burden on the Examiner, which is a requisite showing for proper issuance of a restriction requirement. In fact, applicants submit that to properly search any one group, other group classifications must be considered as well to perform a comprehensive search.

Applicants respectfully request that the claims of Group I directed to a composition comprising a cellulose-based film forming agent; and a polyurethane resin claims of Group II, Group III, Group IV and Group V which are directed to an aqueous composition of the same type of composition and/or, the methods of using such the compositions, be examined together. There would not be a serious burden to search a product and a method of using the product. In fact, there would be overlap. At the very least, Group I and Groups II, III, IV and V should be examined because the broad composition covered in Group I need only be searched. If the composition of Group I is found to be outside the prior art, then the aqueous composition of Groups II and III and method of using the compositions of Groups IV and V would also be outside the prior art. Accordingly, reconsideration of the restriction/election requirement is respectfully requested.

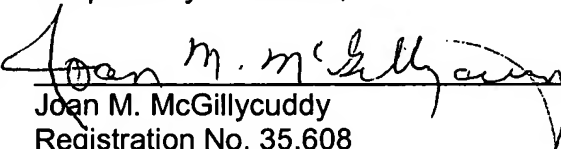
For the above reasons, it is respectfully requested that the Examiner rejoins Groups I, II III, IV and V because there is believed to be no undue or serious burden placed on the Examiner in a search of the art. It is believed that the elected claims are in condition for allowance. Early and favorable action by the Examiner is earnestly solicited.

Applicants respectfully request that the Restriction Requirement be withdrawn and all presented claims be examined on the merits.

Dated: November 22, 2006

Correspondence Address
Joan M. McGillicuddy, Esq.
AVON Products, Inc.
Avon Place
Suffern, NY 10901-5605
845-369-2114

Respectfully submitted,

By: 
Joan M. McGillicuddy
Registration No. 35,608